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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,199	01/16/2002	Walter Haussecker	1707	7805

7590 03/29/2004

Striker Striker & Stenby
103 East Neck Road
Huntington, NY 11743

EXAMINER

MCANULTY, TIMOTHY P

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 03/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/890,199

Applicant(s)

HAUSSECKER ET AL.

Examiner

Timothy P McAnulty

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3 and 12-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,3, and 12-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2,3,12 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. The term "smoothly" in claim 12, line10 is a relative term which renders the claim indefinite. The term "smoothly" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The structure of the teeth at the interface is unclear.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by French Patent Publication 2 741 416.

French Patent Publication 2 741 416 discloses in figure 2, a worm gear 2 meshing with a spur-toothed wheel 3 wherein said spur-toothed wheel comprises a generally cylindrical first wheel disc 4; a generally truncated cone shaped second wheel disc in contact with said first wheel disc at a first interface; and a generally truncated cone shaped third wheel disc in contact with said first wheel disc at a second interface. Each of said first, second, and third wheel discs

having helical gearing and a plurality of teeth including crests on a periphery thereof, said crests of said plurality of teeth on said second and third wheel discs being inclined radially inward towards said first interface and said second interface respectfully.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 2,3,12,14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voigtlander et al. in view of French Patent Publication 2 741 416.

Voigtlander et al. discloses in figure 3, a spur toothed wheel comprising a generally cylindrical first gear wheel disc having teeth 11 and two generally truncated cone shaped second gear wheel discs having teeth 10,12 formed as a single piece wherein said first gear wheel teeth mate with said second gear wheel teeth at an interface. Voigtlander et al. does not disclose said second gear wheel teeth inclined radially inward towards said interface. However, French Patent Publication 2 741 416 teaches in figure 2 a spur-toothed wheel having a generally cylindrical first wheel disc and a generally truncated cone shaped second wheel disc wherein teeth of said first wheel disc mate with inwardly inclined teeth of said second wheel disc at an interface. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Voigtlander et al. in view of the teachings of French Patent Publication 2 741 416 to provide said second gear wheel teeth to inwardly incline towards said interface so as to mesh with a worm gear.

Regarding claims 2,3,12, and 14, the limitation that the spur toothed wheel being produced by injection molding does not further limit invention as claimed. Even though

product-by-process claims are limited and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. See MPEP §2113. Furthermore, French Patent Publication teaches plastic as a suitable material to form gears from.

8. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over French Patent Publication 2 741 416 in view of Japanese Patent Publication JP8-226497.

French Patent Publication 2 741 416 discloses the basic apparatus as previously cited but does not disclose said plurality of teeth of said helical gearing being non-globoidal. However, JP8-226497 teaches in figure 2 worm gearing comprising among other things a worm gear enmeshed with a worm wheel wherein said worm wheel comprising non-globoidal helical gearing. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of French Patent Publication 2 741 416 in view of the teachings of JP8-226497 that it is old and well known in the art to provide non-globoidal helical teeth on a worm wheel enmeshed with a worm thus eliminating complex tooling of said teeth, therefore, reducing the manufacturing cost of said spur-toothed wheel.

Response to Arguments

9. Applicant's arguments filed 04 March 2004 have been fully considered but they are not persuasive. Although French Patent Publication 2 741 416 discloses three separate gear wheels, its broad teachings of forming a single gear from three gear wheels wherein at least one of those gear wheels have inwardly inclined teeth is applicable to modify a single piece gear wheel construction as disclosed in Voigtlander et al. French Patent Publication 2 741 416 is relied upon for teaching the shape of the three gear wheels.

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10. Regarding claims 13 and 15-16, the claims do not require the spur gear to be formed as a single piece, as such, the disclosure of French Patent Publication 2 741 416 are applicable.

Conclusion

11. This is a request for continued examination of applicant's earlier Application No. 09/890199. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy P McAnulty whose telephone number is 703.308.8684. The examiner can normally be reached on Monday-Friday (7:30-5:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703.308.3668. The fax phone number for the organization where this application or proceeding is assigned is 703.872.9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.

tpm 
25 March 2004


WILLIAM C. JOYCE
PRIMARY EXAMINER